

IV. REMARKS

By this amendment, claims 1, 10 and 18 have been amended. Claims 1-8, 10-16, 18, and 20-24 remain pending in this application. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Office, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the subject matter. Applicants do not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-8, 10-16, 18 and 20-24 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hughes (U.S. Patent Pub. No. 2005/0160395), hereafter “Hughes,” in view of Shimada (U.S. Patent No. 6,697,965), hereafter “Shimada,” and further in view of Andrews *et al.* (U.S. Patent Pub. No 2004/0117761), hereafter “Andrews.”

Applicants assert that the references cited by the Office do not teach or suggest each and every feature of the claimed invention. For example, with respect to independent claims 1, 10, 15 and 18, Applicants submit that the cited references fail to teach or suggest comparison of a code pattern that has no affiliation with, and is developed independently from, all of the code patterns stored in the data structure with the code patterns stored in the data structure to determine a closest match to the code pattern to be tested. In contrast, the passage of Andrews

cited by the Office describes a development group storing different versions of its code on a storage facility. Para. 0044.

In the Response to Arguments section of the Office Action, the Office argues that it is not clear what “code developed independently” means and therefore a second version of the software in Andrews could be considered “code developed independently.” Applicants respectfully disagree. However, in order to further clarify the invention, Applicants have further amended the claims to explicitly state that the subsequent set of source code also has no affiliation with the first set of code patterns and is developed independently from the first set of code patterns. (*See e.g.*, claims 1, 10 and 18). In contrast to the claimed invention, the two versions of the same source code in Andrews are, by definition, affiliated with each other and developed from the same source code. The subsequent version of the source code in Andrews therefore is developed from the first version (*i.e.*, affiliated with the first version) and therefore cannot be considered “developed independently” as the claimed invention requires. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With respect to dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicants submit that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicants respectfully request withdrawal of this rejection.

V. CONCLUSION

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

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